

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THE POKÉMON COMPANY
INTERNATIONAL, INC.,

Plaintiff,

v.

JON SAHAGIAN; DOES 1-5,

Defendants.

No. 2:15-CV-00866

DECLARATION OF DAVID
SCHWIMMER IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION

I, David Schwimmer, declare as follows:

1. I am over 18 years of age and make this Declaration based upon my personal knowledge of the facts set forth below. If called upon to testify, I could and would testify competently as to the matters set forth herein.

2. I am the Organized Play Manager for Plaintiff The Pokémon Company International, Inc. ("TPCi"), a Delaware corporation with its principal place of business in Bellevue, Washington.

3. TPCi manufactures, markets, and distributes a variety of entertainment products, including movies, television shows, games, and toys throughout the United States and around the world.

4. One pillar of TPCi's business is the popular Pokémon trading card game ("the

Pokémon TCG”), which was first introduced more than a decade ago. In the Pokémon TCG, each player acts in the role of a “Trainer” and uses a number of different types of cards to play the game, including Pokémon cards, which represent particular characters known as “Pokémon.” Players use his/her Pokémon to battle the Pokémon of other Trainers. Between games, players collect Pokémon TCG cards to assemble their optimal decks. Since the introduction of the Pokémon TCG, TPCi has released thousands of trading cards, developing a rich and diverse Pokémon universe populated by more than 700 unique characters.

5. Each Pokémon TCG card contains original artwork depicting a unique Pokémon character, that character’s powers and abilities, a description of the character, and other data indicating the card’s value within the Pokémon TCG. For example, pictured below is a true and correct copy of a Pokémon trading card depicting one version of the iconic TCG character Pikachu:



6. Pikachu, pictured above, perhaps the most recognizable Pokémon within the rich Pokémon universe, has become the principal mascot for TPCi and the Pokémon brand worldwide. Pikachu appears on numerous cards in the Pokémon TCG, and is featured in or around the branding for championship tournaments and other events TPCi organizes with respect to the Pokémon TCG. A true and correct copy of another Pikachu Pokémon TCG card is pictured

below:



7. Other Pokémon have generated strong followings from fans over the years from, in part, frequent appearances in the Pokémon TCG. For example, Charizard regularly appears in the Pokémon TCG and has been featured in or around the branding for Pokémon TCG championship tournaments and other TCG events. The Charizard card remains the card most coveted by collectors. An true and correct copy of a Charizard Pokémon TCG card appears below:



8. Mewtwo is another of the most popular Pokémon. Mewtwo is frequently featured in the Pokémon TCG and in various Pokémon media and products. A true and correct copy of a Mewtwo Pokémon TCG card is shown below:




9. Pikachu, Charizard, and Mewtwo are just three of the more than 700 Pokémon which populate the diverse Pokémon TCG universe developed by TPCi over more than a decade.

10. TPCi products, particularly the Pokémon TCG expansion sets, are rolled out to significant fanfare and marketed to millions of users in the United States and around the world. For example, in 2014, TPCi invested more than \$6 million in domestic advertising and promotions associated with the Pokémon TCG.

11. I have reviewed the “TCG Sets & Card Scans” section of the PokéBeach Site (www.pokebeach.com) and it appears to contain scans of all or nearly all of the Pokémon TCG cards that have been developed over the history of the Pokémon TCG.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

DATED: May 28, 2015


David Schwimmer

DECL. OF DAVID SCHWIMMER - 4

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